

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MELVIN WILLIAMS,)	
)	
Petitioner,)	Case No. 1:06-cv-142
)	
v.)	
)	Honorable Richard Alan Enslen
MARY BERGHUIS,)	
)	
Respondent.)	
)	

JUDGMENT

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. On or about April 21, 2003, Petitioner filed a habeas petition raising seven grounds for habeas relief in *Williams v. Berghuis*, No. 1:03-cv-270 (W.D. Mich.). After reviewing the claims under Rule 4, RULES GOVERNING § 2254 CASES, the Court found that the petition was “mixed,” i.e., it contained both exhausted and unexhausted claims. The Court issued an opinion and order on July 29, 2003, requiring Petitioner to submit an amended petition containing only his exhausted claims or to exhaust his claims by filing a motion for relief from judgment in the state court within thirty days. Petitioner timely filed a motion for relief from judgment in the Muskegon County Circuit Court. Accordingly, this Court entered an order staying his action until such time as Petitioner filed a motion to amend his petition to include any subsequently exhausted claims. Petitioner, however, filed this habeas petition on March 1, 2006, asserting his exhausted claims from Case No. 1:03-cv-270. Petitioner’s instant petition is barred by the one-year statute of limitations provided in 28 U.S.C. § 2244(d)(1), which became effective on April 24, 1996, as part of the

Antiterrorism and Effective Death Penalty Act, PUB. L. NO. 104-132, 110 STAT. 1214 (AEDPA). Petitioner should have filed an amended petition in Case No. 1:03-cv-270 as required by the October 8, 2003 order. Consequently, the Court will dismiss the instant action without prejudice and direct the Clerk of the Court to re-file the newly filed habeas corpus petition and supporting brief (docket ## 1-2) in Case No. 1:03-cv-270. The pleadings should be filed as of March 1, 2006, the date they were first received by the Court. Accordingly:

IT IS HEREBY ORDERED that the Clerk of the Court shall file the instant petition for writ of habeas corpus and supporting brief (Dkt. Nos.1 & 2) in Case No. 1:03-cv-270.

IT IS FURTHER ORDERED that the captioned case is **DISMISSED** without prejudice.

DATED in Kalamazoo, MI:
April 10, 2006

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE